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d/b/a Resnick Distributors

**U.S. DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

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AMSTERDAM TOBACCO CO., INC. :
DONOHUE CANDY AND TOBACCO :
CO., INC., KINGSTON CANDY & : Docket No. 1:18-CV-01432 (KAM) (VMS)
TOBACCO CO., INC., MOUNTAIN :
CANDY & CIGAR CO., INC. and :
SUNRISE CANDY & TOBACCO CORP., :
Plaintiffs, :
v. :
HAROLD E. LEVINSON ASSOCIATES, :
LLC, CORE-MARK MIDCONTINENT, :
INC., MCLANE/EASTERN, INC., :
MCLANE/MIDWEST, INC., PLAINFIELD :
TOBACCO AND CANDY CO., INC. d/b/a :
RESNICK DISTRIBUTORS, and :
CONSUMER PRODUCT DISTRIBUTORS, :
INC. d/b/a J. POLEP DISTRIBUTION :
SERVICES, :
Defendants. :
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**SUPPLEMENTAL NOTICE OF
MOTION ON BEHALF OF
DEFENDANT, PLAINFIELD
TOBACCO AND CANDY CO., INC.
d/b/a RESNICK DISTRIBUTORS,
TO DISMISS THE AMENDED
COMPLAINT FILED BY MOUNTAIN
CANDY & CIGAR CO., INC.**

TO: Randall M. Fox, Esq.
KIRBY McINERNEY LLP
825 Third Avenue, 16th Floor
New York, New York 10022

All Counsel on the Attached Service List

SIR:

PLEASE TAKE NOTICE that at 9:00 a.m. on a date to be set by the Court, Defendant, Plainfield Tobacco and Candy Co., Inc. d/b/a Resnick Distributors (“Resnick”), through its attorneys, shall apply to the United States District Court for the Eastern District of New York before the Honorable Kiyo A. Matsumoto, U.S.D.J., in Room 6C South of the United States Courthouse, Brooklyn, New York, for an Order dismissing the Amended Complaint filed against it by Mountain Candy & Cigar Co., Inc., Document No. 38, pursuant to Rule 12(b)(6) for failure to state a claim on which relief can be granted.

PLEASE TAKE FURTHER NOTICE that in support of this motion, the undersigned will rely upon the Brief of Core-Mark filed in support of its Motion to Dismiss, Document No. 53. A form of Order is also being submitted.

DATED: September 10, 2018
Woodbridge, NJ

Respectfully submitted,

WILENTZ, GOLDMAN & SPITZER, P.A.
Attorneys for Defendant, Plainfield Tobacco
and Candy Co., Inc. d/b/a Resnick
Distributors

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